

CMS Background Check Pilot Program

Evaluating Screening for a Quality Workforce

Overview

Section 307 of the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003 (PL 108-173) established the framework for a program to evaluate national and state background checks on prospective employees with direct access to patients of long-term care facilities or providers. The program's purpose is to identify efficient, effective, and economical procedures for conducting background checks. The pilot will be administered by the Centers for Medicare & Medicaid Services (CMS), in consultation with the Department of Justice. The pilot programs will operate from January 2005 through September 2007. Pilot states may phase in the implementation of their background check program, but all aspects of the program must be fully operational by March 2006, to allow sufficient data for the evaluation.

Pilot States

CMS selected seven states to participate in the Background Check Pilot Program. The states represent a mix of rural and urban areas and include ethnically and culturally diverse populations. The pilot states include: Alaska, Idaho, Illinois, Michigan, Nevada, New Mexico, and Wisconsin.

CMS awarded additional funding to four states to create and deliver a comprehensive abuse prevention training program to employees and managers of long term care facilities. The states selected for the additional training funds are Alaska, Michigan, and Wisconsin.

Background Check Pilot Program Requirements

Each state has established their background check requirements. However, state programs must include, at a minimum, the following requirements as set forth in Section 307 of the MMA:

- Long-term care facilities and providers must conduct background checks for all direct patient access employees prior to the applicant's employment. Long-term care facilities subject to these requirement include:
 - Skilled nursing facilities/nursing facilities
 - Long-term care hospitals/hospitals with swing beds
 - Intermediate care facilities for persons with mental retardation (ICFs/MR)
 - Home health agencies
 - Home—and-community-based service (HBCS) group homes over 8 beds
 - Personal care agencies – Medicaid State Plan

Note: States may have expanded the list of facility or provider categories.

- The applicant must provide a written statement disclosing any disqualifying information and authorize the facility to conduct a national and state criminal record check. The applicant must also provide a set of 10 rolled fingerprints.
- The background check must include a search of any available registry (including state nurse aide registries) that would likely contain disqualifying information about the applicant and a search of state and national criminal history records through a 10 rolled fingerprint check, utilizing state criminal records and the Integrated Automated Fingerprint Identification system of the Federal Bureau of Investigation (FBI).
- The background check may be terminated at any stage once disqualifying information regarding the applicant has been obtained.
- The background check results must only be used for the purpose of determining suitability of employment.
- Long-term care facilities may not knowingly employ any direct patient access applicant who has any disqualifying information.

- States must establish procedures to permit applicants to appeal or dispute the accuracy of the background check results.
- States must ensure that long-term care facilities are provided immunity from any action brought by the applicant who was denied employment based on the background check information.
- States must establish a method to monitor compliance with the background check requirements.

Other Provisions

Pilot states have elected to include other background check provisions, including:

- Long-term care facilities may allow a period of provisional employment for direct patient access employees, pending completion of the background check. Supervision of the employee is required during this period, as determined by the state.
- Procedures for conducting background checks on direct access patient applicants who are employed by employment agencies (including temporary employment or staffing agencies).

For more information about state-specific CMS Background Check Pilot Program requirements:

State Background Check Pilot Contacts		
State	Agency	Primary Contact
Alaska	Department of Health & Social Services Licensing & Certification Division of Public Health P.O. Box 110610 Juneau, AK 99811-0610	Don Brand Project Manager Phone: 907-465-8624 E-mail: Donald_Brand@health.state.ak.us
Idaho	Department of Health & Welfare Bureau of Audits & Investigations 450 W. State Street, 9 th Floor P.O. Box 0036 Boise, ID 83720-0036	Mond Warren Bureau Chief Phone: 208-334-5997 E-mail: warrenm@idhw.state.id.us
Illinois	Illinois Department of Public Health Office of Healthcare Regulation 525 W. Jefferson Street Springfield, IL 62761	Debra Bryars Section Chief Phone: 217-785-2629 E-mail: dbryars@idph.state.il.us
Michigan	Department of Community Health Lewis Cass Building 320 South Walnut Street P.O. Box 30479 Lansing, MI 48909	Jan A. Christensen Deputy Director Phone: 517-335-1197 E-mail: Christensenj@michigan.gov
Nevada	State Health Division Bureau of Licensure and Certification 505 E. King Street, Room 201 Carson City, NV 89701	Pamela S. Graham Bureau Chief Phone: 775-687-4475 X 247 E-mail: pgraham@blc.state.nv.us

New Mexico	Department of Health Administrative Services Bureau Division of Health Improvement Harold Runnels Bldg., Room N-3078 1190 St. Francis Drive Santa Fe, NM 87502-6110	Edna Ortiz Bureau Chief Phone: 505-827-2712 E-mail: edna.ortiz@doh.state.nm.us
Wisconsin	Department of Health & Family Services Office of Caregiver Quality Bureau of Quality Assurance Division of Disability and Elder Services 2917 International Lane, Suite 300 Madison, WI 53704	Shari Busse Supervisor Phone: 608-243-2084 E-mail: bussese@dhfs.state.wi.us

Evaluation

Congress has ear-marked separate funds to conduct an independent evaluation of the background check pilot. The purpose of the evaluation is to:

- Review the various background check procedures implemented by the pilot states to identify the most efficient, effective, and economical procedures for conducting such background checks;
- Assess the costs of conducting such background checks (including start-up and administrative costs);
- Consider the benefits and problems associated with requiring employees or facilities and providers to pay the costs of conducting such background checks, and whether the costs should be allocated between the Medicare and Medicaid programs;
- Determine if conducting background checks leads to any unintended consequences, including a reduction in the available long-term care workforce;
- Review forms used by participating states, in order to develop a model form for such background checks;
- Determine whether conducting background checks by employment agencies is effective;
- Compile "lessons learned" from the pilot states to guide further decisions about the appropriate procedures and payment mechanisms for implementing a national criminal background check program for providers and facilities.

Last Modified on November 15, 2005